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[Proposed] Lead Counsel for Plaintiff and Class

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

LOI TRAN, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED,	)	No. 2:16-cv-00602-MWF-SS
)	
)	
Plaintiff,	)	RESPONSE OF THE THIRD
	)	AVENUE INVESTOR GROUP
vs.	)	TO COMPETING LEAD
	)	PLAINTIFF MOTIONS
)	
THIRD AVENUE MANAGEMENT	)	<u>CLASS ACTION</u>
LLC; THIRD AVENUE TRUST;)	
M.J. WHITMAN LLC; MARTIN J.	)	JUDGE: Hon. Michael W.
WHITMAN; DAVID M. BARSE;	)	Fitzgerald
JACK W. ABER; WILLIAM E.)	
CHAPMAN, II; LUCINDA	)	Hearing Date: May 2, 2016
FRANKS; EDWARD J. KAIER;	)	Time: 10:00 a.m.
MARVIN MOSER; ERIC	)	CTRM: 1600 – Sixteenth Floor
RAKOWSKI; MARTIN SHUBIK;	)	(Spring Street)
CHARLES C. WALDEN; VINCENT)	
J. DUGAN; W. JAMES HALL III;)	
MICHAEL BUONO; THOMAS)	
LAPOINTE; NATHANIEL KIRK;)	
EDWIN TAI; and JOSEPH)	
ZALEWSKI,)	
)	
Defendants.)	

INTER-MARKETING GROUP USA,
INC., INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

THIRD AVENUE TRUST, THIRD
AVENUE MANAGEMENT LLC, M.J.
WHITMAN LLC, MARTIN J.
WHITMAN, DAVID M. BARSE,
VINCENT J. DUGAN, WILLIAM E.
CHAPMAN, II, LUCINDA FRANKS,
EDWARD J. KAIER, ERIC
RAKOWSKI, MARTIN SHUBIK,
CHARLES C. WALDEN and
PATRICK REINKEMEYER,

Defendants.

No. 2:16-cv-00736-MWF-SS

CLASS ACTION

JUDGE: Hon. Michael W.
Fitzgerald

Hearing Date: May 2, 2016
Time: 10:00 a.m.
CTRM: 1600 – Sixteenth Floor
(Spring Street)

SCOTT MATTHEWS,
INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

vs.

THIRD AVENUE MANAGEMENT
LLC; THIRD AVENUE TRUST; M.J.
WHITMAN LLC; MARTIN J.
WHITMAN; DAVID M. BARSE;
JACK W. ABER; WILLIAM E.
CHAPMAN, II; LUCINDA FRANKS;
EDWARD J. KAIER; MARVIN
MOSER; ERIC RAKOWSKI;
MARTIN SHUBIK; CHARLES C.
WALDEN; VINCENT J. DUGAN; W.
JAMES HALL III; MICHAEL
BUONO; THOMAS LAPOINTE;
NATHANIEL KIRK; EDWIN TAI;
and JOSEPH ZALEWSKI,

Defendants.

No. 2:16-cv-00770-MWF-SS

CLASS ACTION

JUDGE: Hon. Michael W.
Fitzgerald

Hearing Date: May 2, 2016
Time: 10:00 a.m.
CTRM: 1600 – Sixteenth Floor
(Spring Street)

SUPRABHA BHAT,
INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

vs.

THIRD AVENUE MANAGEMENT
LLC, THIRD AVENUE TRUST, M.J.
WHITMAN LLC, MARTIN J.
WHITMAN, DAVID M. BARSE,
JACK W. ABER, WILLIAM E.
CHAPMAN II, LUCINDA FRANKS,
EDWARD J. KAIER, MARVIN
MOSER, ERIC RAKOWSKI,
MARTIN SHUBIK, CHARLES C.
WALDEN, VINCENT J. DUGAN, W.
JAMES HALL III, MICHAEL
BUONO, THOMAS LAPOINTE,
NATHANIEL KIRK, EDWIN TAI,
and JOSEPH KALEWSKI,

Defendants.

No. 2:16-cv-00904-MWF-SS

CLASS ACTION

JUDGE: Hon. Michael W.
Fitzgerald

Hearing Date: May 2, 2016
Time: 10:00 a.m.
CTRM: 1600 – Sixteenth Floor
(Spring Street)

Joseph Paulin, Frances Taylor, Kirk Taylor, and Scott McLatchy (collectively, the “Third Avenue Investor Group”) submits this response to the competing lead plaintiff motions.

Of the remaining movants,¹ only the Third Avenue Investor Group has members, Kirk Taylor and Joseph Paulin, that purchased Third Avenue Focused Credit Investor Fund (“TFCVX”) shares(Dkt. # 32-3). Therefore, the Court should

¹ The Pomerantz law firm’s lead plaintiff motion was withdrawn earlier today. Dkt. # 47-48, 50.

1 appoint either Mr. Taylor and/or Mr. Paulin as lead plaintiff for the purchasers of
 2 TFCVX as they are the only movants that are before the Court that have standing
 3 to pursue such claims. While some courts have held that a lead plaintiff need not
 4 have standing to pursue every claim, the failure to address these concerns have led
 5 to adverse consequences. *See In re Zynga Inc. Sec. Litig.*, 2014 WL 721948, at * 3
 6 (N.D. Cal. Feb. 25, 2014) (dismissing claim because plaintiffs based on false
 7 offering document as plaintiff did not purchase shares in the offering).
 8 Additionally, the appointment of separate lead plaintiffs will eliminate the
 9 appearance of any potential conflict between purchasers of the TFCVX and the
 10 institutional shares, TFCIX. *See Friedman v. Quest Energy Partners LP*, 261
 11 F.R.D. 607, 610-11 (W.D. Okla. 2009) (finding that separate lead plaintiffs were
 12 required for purchasers of different securities against the same defendants).

13
 14 Dated: April 11, 2016

Respectfully submitted,

THE ROSEN LAW FIRM, P.A.

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[Proposed] Lead Counsel for Plaintiff and
 Class

CERTIFICATE OF SERVICE

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:
I am the managing attorney of The Rosen Law Firm, P.A., with offices at 355 South Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of eighteen.

On April 11, 2016, I electronically filed the following **RESPONSE OF THE THIRD AVENUE INVESTOR GROUP TO COMPETING LEAD PLAINTIFF MOTIONS** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

Executed on April 11, 2016.

/s/ Laurence M. Rosen

Laurence M. Rosen